THE 527 REFORM ACT

Under the Internal Revenue Code, a 527 group is defined as an organization "organized and operated primarily" to influence elections. The Federal Election Commission, however, has failed to apply existing federal campaign finance laws to require that 527 groups spending money to influence federal elections register as federal political committees and comply with federal campaign finance laws, including the limits on the contributions they may receive.

As a result, both Democratic-leaning and Republican-leaning 527 groups spent tens of millions of dollars in soft money to influence the 2004 federal elections. A number of 527 groups did not register as federal political committees and spent soft money on ads attacking and promoting federal candidates. Other 527 groups did register as federal political committees but claimed that under FEC rules they could spend as much as 98 percent soft money on partisan voter drive activities for the purpose of influencing the 2004 federal elections.

Clarifying and Reaffirming the Law of the Land: Provisions of the 527 Reform Act

- Requires 527s groups to register as political committees with the FEC and comply with federal campaign finance laws, unless they raise and spend money exclusively in connection with non-Federal candidate elections, or state or local ballot initiatives, or the nomination or confirmation of individuals to non-elected offices, such as judicial positions.

    - Under this requirement, 527 groups registered as political committees and subject to federal campaign finance laws can use only federal hard money contributions to finance ads that promote or attack federal candidates, regardless of whether the ads expressly advocate the election or defeat of the candidate.

    - Any 527 group with annual receipts of less than $25,000 is exempt from the requirement to register as a political committee and comply with federal campaign finance laws.

- Establish that when a 527 group registered as a federal political committee makes expenditures for voter mobilization activities or public communications that affect both federal and non-federal elections, at least 50% of the costs of such activities would have to be paid for with Federal hard money contributions.

- Provide that with regard to the non-federal funds that can be used to finance a portion of voter mobilization activities and public communications that affect both federal and non-federal elections, such funds must come from individuals only and must be in amounts of not more than $25,000 per year per individual donor.

    - This is similar to the provision in the Bipartisan Campaign Reform Act of 2002 that places a limit on the size of a nonfederal contribution that can be spent by state parties on activities affecting both federal and non-federal elections. $25,000 is the same amount that an individual can contribute to a national political party. An individual can give only $5,000 per year to a federal political committee to influence federal elections.

Note: The 527 Reform Act provides that it applies only to 527 groups and that nothing in the Act will have any effect on determining whether 501(c) groups are subject to federal campaign finance laws.

Frequently Asked Questions

Q. How does the bill affect spending by state and local candidates?

A. The bill explicitly exempts state and local candidates and their campaign committees from being covered by the legislation. Contrary to incorrect claims being made, state and local candidate and political party committees are exempt from this legislation, regardless of their activities.

Q. How does the bill affect 501(c)(3) and 501(c)(4) groups?

A. The bill does not apply to 501(c)(3) and 501(c)(4) groups. The bill applies only to groups that voluntarily request and qualify for tax-exempt status under section 527 of the Internal Revenue Code. To qualify under section 527, such groups must be "organized and operated primarily" for the purpose of influencing elections. In contrast, under the Code, a 501(c)(4) group cannot have such a "primary purpose" to influence elections. And a 501(c)(3) group cannot spend any money to influence elections. Thus, 501(c) groups by definition cannot qualify as 527 groups. The bill, furthermore, explicitly provides that it does not apply to 501(c) groups.

Q. Are 501(c) groups "next"?

A. The sponsors of H. R. 513 publicly have made clear, and have made clear by the language of the bill, that this is a legislative effort to deal only with 527 groups – the identified campaign finance problem area that arose out of the 2004 elections. The claim that 501(c) groups are next is a tactic to foment opposition to the bill that has no basis.

Q. How does the bill affect nonpartisan voter drive activities?

A. The bill does not cover nonpartisan voter drive activities carried out by 501(c) organizations. 527 groups are, by definition, designed to influence elections and generally carry out voter drive activities with partisan purposes.

Q. Does the bill apply to "issue" groups?

A. No. The bill applies only to 527 groups, and these groups, by definition, are "organized and operated primarily" for the purpose of influencing elections. 527 groups are "political organizations," not "issue" groups. 527 groups primarily engage in spending money to influence elections, and therefore are appropriately covered by campaign finance laws. "Issue" groups, such as 501(c) groups, cannot primarily engage in spending money to influence elections and are not covered by the bill.

Q. Is it constitutional to regulate contributions to 527 groups that operate and spend money on federal campaigns independently of federal candidates and parties?

A. Yes. The constitutionality of limits on contributions to parties and political committees does not depend on what the funds are spent for, but rather on the ability of the contributions to buy influence or create the appearance of buying influence with candidates. Large donations to 527 groups spending money to influence federal elections can buy influence with federal candidates. The Supreme Court noted in McConnell that contributions to a political committee engaged in "noncoordinated" or independent spending could buy influence and therefore could be limited.

Q. Why is independent activity by 527 groups subject to federal campaign finance laws?

A. As noted above, contributions to 527 groups that are spending money to influence federal elections have the ability to buy influence with federal candidates, even if the 527 groups are operating and spending money independently. The 2004 federal elections saw numerous examples of 527 groups operating as barely disguised surrogates for the political parties, and of former soft money donors to the parties moving their soft money contributions to these 527 groups.